

REMARKS

Claims 1-3, 5-6, 8-9, 11-14, and 16 are currently pending. Claims 1-3, 8-9, 12, and 16 have been amended and claims 4, 7, 10, 15, and 17-20 have been cancelled.

The Examiner has identified in the application the following patentably distinct inventions:

- I. Claims 1-16, drawn to a toilet, classified in class 4, subclass 312; and
- II. Claims 17-20, drawn to a method of flushing a toilet, classified in class 4, subclass 661.

The Examiner has required election of one of the inventions for prosecution.

Applicant hereby affirms the provisional election made March 10, 2005 and elects to prosecute the claims of Group I (claims 1-16). Applicant has canceled the claims of Group II (claims 17-20). Applicant reserves the right to file divisional applications directed to the non-elected claims at a later date.

Applicant has provided a corrected Declaration and Power of Attorney including the filing date and the serial number of the present application.

The Examiner objected to the drawings for allegedly failing to include all of the claimed features. Applicant has amended or cancelled the claims to remove any features not clearly illustrated in the drawings. Applicant notes that these features are supported by the specification and the original claims. As such, Applicant reserves the right to claim these features at a later date.

The Examiner rejected claims 2-4, 7, 10, 12, and 15 under 35 U.S.C. §112, first paragraph.

Claims 4, 7, 10, and 15 have been cancelled rendering this rejection moot with regard to those claims. Claim 2 has been amended to recite that the enclosure includes a movable

wall that is movable with respect to the bowl. As illustrated in Fig. 1, one movable wall, in the form of a pair of doors 25 forms part of the enclosure and is movable with respect to the bowl 15. With regard to claims 3 and 12, Applicant has amended the claims to remove the un-illustrated features and to more clearly define the subject matter claimed. Again, Applicant believes the removed features are supported by the specification and the original claims. As such, Applicant reserves the right to claim these features at a later date.

In light of the foregoing, Applicant requests the withdrawal of the rejection of claims 2-3 and 12 under 35 U.S.C. §112, first paragraph.

The Examiner rejected claims 1 and 4 under 35 U.S.C. §102(b) as being anticipated by Lindroos (U.S. Patent No. 5,084,940).

Amended claim 1 defines a toilet that includes a bowl that defines a trap, an enclosure, and a vent that is operable to admit air into the enclosure. At least one of the bowl and the enclosure is movable with respect to the other of the bowl and the enclosure between a first position and a second position. When in the first position, the bowl is sealably enclosed within the enclosure.

Lindroos does not teach or suggest, among other things, a toilet that includes a bowl that defines a trap. Rather, Lindroos teaches a toilet bowl 1 attached to an outlet duct 2. A sewer valve 4 is positioned between the sewer and the outlet duct. The sewer valve opens and closes to allow the toilet to flush. The system of Lindroos does not include a “trap” as that term would be understood by one of ordinary skill in the art. Traps are well known and common in the art of plumbing and includes a bend that maintains a quantity of water within the pipe to maintain a seal between the bowl and the sewer. No feature disclosed by Lindroos could be considered a trap.

In light of the foregoing, Lindroos does not teach or suggest each and every limitation of claim 1. As such, claim 1 is allowable. In addition, claims 2-6 and 8, which depend from claim 1, are allowable over Lindroos for these and other reasons.

The Examiner rejected claims 1-2, 5-11, and 13-16 under 35 U.S.C. §102(b) as being anticipated by Koch (U.S. Patent No. 2,076,950).

Claim 1 defines a toilet that includes a bowl that defines a trap, an enclosure, and a vent that is operable to admit air into the enclosure. At least one of the bowl and the enclosure is movable with respect to the other of the bowl and the enclosure between a first position and a second position. When in the first position, the bowl is sealably enclosed within the enclosure.

Koch does not teach or suggest, among other things, a toilet that includes a trap. Rather, Koch discloses a disappearing toilet that includes a bowl 36 that is connected to a tapering body portion 38 and a tubular portion 39 which in turn leads to a waste pipe 42 that leads to a discharge point such as a sewer. No portion of the fluid connection between the bowl and the sewer takes the shape of a trap. As discussed with regard to the Lindroos rejection, traps are well known in the art of plumbing and generally include one or more bends that maintain a quantity of water within the pipe to maintain a seal between the bowl and the sewer. Koch does not teach or suggest any feature that resembles a trap.

In light of the foregoing, Koch does not teach or suggest each and every limitation of claim 1. As such, claim 1 is allowable. In addition, claims 2-6 and 8, which depend from claim 1, are allowable over Koch for these and other reasons.

Amended claim 9 defines a toilet that includes a housing that at least partially defines a flush space and a movable wall that is movable between a first position and a second position. A vent is in fluid communication with the flush space and is operable to admit air

into the flush space. A flushable bowl includes a trap portion fixedly attached to the bowl. The bowl is coupled to at least one of the movable wall and the housing such that when the movable wall is in the first position, the flushable bowl is sealably enclosed within the flush space.

As discussed, Koch does not teach or suggest, among other things, a flushable bowl that includes a trap portion. Rather, Koch discloses a bowl that is connected to a sewer via a substantially straight vertical pipe with no portion shaped like a trap, as that term is understood in the plumbing art.

In light of the foregoing, Koch does not teach or suggest each and every limitation of claim 9. As such, claim 9 is allowable. In addition, claims 11-14 and 16, which depend from claim 9, are allowable over Koch for these and other reasons.

The Examiner rejected claims 3 and 12 under 35 U.S.C. §103(a) as being unpatentable over Koch in view of Fernald (U.S. Patent No. 5,029,346).

Claim 3 depends from claim 1 and adds that the vent inhibits flow out of the enclosure. Claim 12 depends from claim 9 and adds a similar limitation. Koch does not teach or suggest, among other things, a vent that inhibits flow out of the flush space. Rather, Koch teaches a disappearing toilet that includes a panel 13 that engages the edges of the opening 16 to provide a gas-tight and odor-tight seal. A vent pipe 91 extends from the recess 11 to a suitable discharge point. Koch does not mention inhibiting flow out of the space, but rather teaches the desirability of allowing gas to freely escape. As such, Koch teaches away from the limitations recited in claims 3 and 12.

Fernald does not cure the deficiencies of Koch. Fernald discloses a toilet bowl vent system that includes a vent positioned within the tank above the maximum water level. A fan 54 draws air from the tank to establish a low pressure region within the tank. The low

pressure region draws additional air from the bowl of the toilet. Thus, Fernald also teaches away from providing a vent that *inhibits* flow out of an enclosure.

In light of the foregoing, Koch and Fernald, alone or in combination, do not teach or suggest each and every limitation of claim 3 or 12. As such, claims 3 and 12 are allowable.

The Examiner rejected claims 6, 8, 14, and 16 under 35 U.S.C. §103(a) as being unpatentable over Koch in view of Wines (U.S. Patent No. 4,072,157).

Claim 6 depends from claim 5, which depends from claim 1, and adds that the sensor includes a limit switch. Claim 8 also depends from claim 5 and adds that the sensor inhibits flushing when the bowl and enclosure are in any position other than the first position. Claim 14 depends from claim 13, which depends from claim 9, and adds limitations similar to those added by claim 5. Claim 16 also depends from claim 13 and adds limitations similar to those added by claim 8.

As discussed, Koch does not teach or suggest all of the limitations of claim 1 or claim 9, much less those of claims 6, 8, 14, and 16. Furthermore, with regard to claims 8 and 16, Applicant notes that while Koch discloses a mechanical switch 76 that initiates a flush when the bowl is in its innermost position, Koch does not teach or suggest a switch that *inhibits* flushing in all positions other than the inner most position. In fact, Koch makes no mention of the switch inhibiting flushing. Koch only teaches the use of the switch to initiate a flush. *See Koch, page 2, second column, lines 51-61.*

Wines does not cure the deficiencies of Koch. Wines discloses a portable nursing device that includes an automated bedpan cleaner. The bedpan is loaded into the cleaner and cleaned using water, cleansers, or other cleaning chemicals. The bedpan is then rotated 180 degrees to dump the water or chemicals out of the pan. A limit switch 174 opens when the bedpan rotates 180 degrees to de-energize a motor 126 and stop rotation of the bedpan. *See*

Wines, col. 5, lines 55-59. Wines teaches nothing regarding using a limit switch to detect the position of a bowl, or using a limit switch to inhibit flushing of the bowl if the bowl is not in the proper position. Thus, Wines teaches little more than the existence of limit switches.

In light of the foregoing, Koch and Wines, alone or in combination, do not teach or suggest each and every limitation of claims 6, 8, 14, and 16. As such, claims 6, 8, 14, and 16 are allowable.

CONCLUSION

In light of the foregoing, Applicant respectfully submits that claims 1-3, 5-6, 8-9, 11-14, and 16 are allowable.

The undersigned is available for telephone consultation during normal business hours.

Respectfully submitted,



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